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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL - 3 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Qwest Communications ) WC Docket No. 02-148  
International, Inc. )  
 )  
Consolidated Application for Authority )  
to Provide In-Region, InterLATA Services )  
in Colorado, Idaho, Iowa, Nebraska )  
and North Dakota )

COMMENTS OF ONEEIGHTY COMMUNICATIONS, INC.

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## **SUMMARY**

Qwest should receive a failing grade concerning its compliance with Checklist Item 11, the number portability requirements of section 251 as implemented by the Commission. As explained herein in more detail, OneEighty and its customers have endured a number of serious outages caused by Qwest - one as recently as last week - because of Qwest's complete lack of a working system of internal controls with regard to ported numbers. Moreover, Qwest's Performance Assurance Plan is not clear and is not adequate to deter similar occurrences in the future, or to provide realistic compensation to CLECs, for severe outages such as those experienced by OneEighty. Review of Qwest's performance in this regard will leave the Commission with no other conclusion than that Qwest is failing to meet its obligations in opening its markets to competition. Granting Qwest Section 271 authority at this time is clearly not in the public interest.

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**COMMENTS OF ONEEIGHTY COMMUNICATIONS, INC.**

OneEighty Communications, Inc. ("OneEighty") submits these comments concerning the above-captioned Consolidated Application of Qwest Communications International, Inc. for Authority to Provide In-Region, InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota filed June 13, 2002 ("Application").<sup>1</sup> OneEighty Communications, a competitive local exchange carrier, is a leading integrated communications provider of facilities-based telecommunications solutions in the Northwest. OneEighty Communications offers business customers local exchange and long distance services, Internet access, web hosting, and data services, delivering voice and data services over high-speed broadband connections. For the reasons stated herein, the Federal Communications Commission ("Commission") should deny Qwest's Application.

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<sup>1</sup> Comments Requested on the Application By Qwest Communications International, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the States of Colorado, Idaho, Iowa, Nebraska & North Dakota, Public Notice, WC Docket No. 02-148, DA 02-1390, released June 13, 2002.

**I. QWEST FAILS TO PROVIDE ADEQUATE NUMBER PORTABILITY IN VIOLATION OF CHECKLIST ITEM 11**

**A. Legal Standard**

Section 271(c)(2)(B) of the 1996 Act<sup>2</sup> requires an RBOC to comply with number portability requirements of section 251 as implemented by the Commission.<sup>3</sup> Section 251(b)(2) requires all LECs “to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”<sup>4</sup> The 1996 Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”<sup>5</sup>

**B. Qwest Lacks a Working System of Internal Controls for Number Portability**

Qwest does not have a working system of internal controls in place to manage number portability. A customer in the Qwest region cannot currently “retain, at the same location, existing telecommunications numbers *without impairment of quality, reliability, or convenience* when switching” from Qwest to a CLEC. Qwest’s current “system” for managing number portability lacks essential controls, as an incident OneEighty experienced just last week will illustrate.

In November, 2001, Avista Communications of Montana, Inc. (“Avista”) was about to become an operating subsidiary of OneEighty. As part of that process, Avista sent an order to the NANPA administrator, NeuStar, to change the name and revenue accounting office (“RAO”) for the NPA/NXX 406/294 from Avista to OneEighty. NeuStar, rather than changing the name and RAO for the NPA/NXX 406/294 as requested, mistakenly processed the order as an order to

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<sup>2</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified as amended in scattered sections of Title 47 of the United States Code) (“1996 Act”).

<sup>3</sup> 47 U.S.C. § 271(c)(2)(B)(xii).

<sup>4</sup> *Id.* § 251(b)(2).

cancel Avista's use of this NPA/NXX. NeuStar notified Qwest, as the service provider that had ported 406/294 numbers, that Qwest must either assume the 406/294 NPA/NXX, or number changes would have to be done for the customers.

Qwest elected to assume 406/294, which initiated a Local Exchange Routing Guide ("LERG") date of July 13, 2002. Qwest decided that it wanted to assume the 406/294 NPA/NXX ahead of schedule, *i.e.*, prior to the LERG date. On June 24, 2002, the Qwest Account Manager for OneEighty (by this time, Avista had been acquired by OneEighty) called OneEighty and left a voice mail message asking if it was okay with OneEighty if Qwest assumed the 406/294 NPA/NXX early. OneEighty returned the call the same day, reaching its Account Manager's voice mail, telling her that if Qwest was talking about assuming the entire 406/294 NPA/NXX, there was a major problem, as this was a working OneEighty NPA/NXX. In spite of the scheduled LERG date being July 13, 2002, which OneEighty had not agreed to change, and despite Qwest having been told that OneEighty was using that NPA/NXX and had not asked NeuStar to cancel it, Qwest went ahead and worked the order on Tuesday morning, June 25, 2002, taking the 294 prefix off of all OneEighty's trunk groups. As a result, suddenly no incoming calls from outside the OneEighty network would route to OneEighty if the dialed number started with 406/294 or was a QWEST ported number to OneEighty using the 406/294 LRN.

OneEighty's customers are all business customers. Qwest removed the 294 prefix off OneEighty's trunk groups at the beginning of a business day. OneEighty's customers experienced a major outage, which affected over 6000 business lines and included city and county offices, TV stations, medical clinics, and pharmacies. For approximately three and one-half hours during a weekday morning, these 6000+ business lines were unable to receive

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<sup>5</sup> *Id.* § 153(30).

incoming calls from anyone other than another customer served by OneEighty. Anyone else trying to call one of these 6000 lines that morning either received a fast busy signal, an intercept recording stating that the call could not be completed as dialed, or an intercept recording stating that the number had been disconnected.

When OneEighty first became aware of the outage, it immediately notified Qwest by issuing a trouble ticket to Qwest as well as by other means considering the seriousness of the situation. OneEighty did not know at the time what was causing the outage – it did not know that Qwest had unilaterally decided to remove the 294 prefix from all of OneEighty's trunks. Finally a OneEighty employee - not a Qwest employee - figured out what Qwest might have done to cause the chaos, tracked down a Qwest complex translations employee in Littleton, Colorado, and got the problem fixed.

Needless to say, OneEighty had hundreds of very angry customers last week. Qwest's unilateral and cavalier action inflicted upon OneEighty a customer relations wound that is still bleeding. From the customers' perspective, such incidents make it appear that OneEighty's network is unstable. Two customers have already filed complaints with the state public utility commission against OneEighty over this outage, and OneEighty expects to see additional complaints filed.

In view of the significant adverse consequences that would certainly befall consumers in the event of error, the fact that Qwest implemented as drastic a change as removing 406/294 from OneEighty's trunks without obtaining any confirmation, either manually or on an automated basis, shows that it lacks adequate internal controls to assure reliability of its portability systems. The fact that it rushed to do so prior to the scheduled LERG date just highlights the extent of the problem. Moreover, this is not the first time that Qwest has shown lack of internal controls. One of the first incidents OneEighty (then Avista) experienced

evidencing Qwest's lack of controls over its translation procedures occurred sometime around January 2000. As the Commission is aware, under the North American Numbering Plan, every telephone number takes the form (NPA) NXX-XXXX, where NPA, or "numbering plan area," represents the three digit area code, and NXX represents the next three digits of the telephone number, often called the "prefix." Qwest's practice was to send Avista seven digit translations over Avista's trunks (*i.e.*, the telephone number without the NPA). Avista's switch was therefore programmed to add three digits (the NPA) to each group of seven digits sent by Qwest. One day (again in the middle of a business day, the worst possible time for Avista's business customers to experience an outage), Qwest began sending ten digit translations on Avista's trunks - without telling Avista that it was changing its translations procedures. Since Avista did not know that Qwest had begun sending ten digit translations, Avista continued to add on the three digit NPA. Since the translations are read from left to right, the NPA/NXX now appeared as "406/406." Qwest's failure to notify Avista that it had changed its basic routing procedures stopped all call routing for inbound calls for an extended period of time. All Qwest would have had to do to prevent this outage experienced by OneEighty customers was to have notified OneEighty in advance of the change in its translation procedures, but no Qwest working system of internal controls was in place to ensure that such notification would occur.

Qwest should not be found to meet the checklist item for number portability until it shows it has a working system of internal controls for ported numbers and translation procedures in place that includes some minimal safeguards against making errors of the magnitude OneEighty has experienced. It would have taken very little effort on Qwest's part to prevent the debacle that occurred last week – all Qwest had to do was obtain confirmation from the losing CLEC, OneEighty, that the order to cancel an entire NPA/NXX was correct. Alternatively, had Qwest made a simple check of current traffic over the trunk group prior to assuming



OneEighty's 406/294 NPA/NXX, it would have seen that OneEighty's trunks were still in service and passing a substantial amount of traffic. Neither occurred because Qwest still has no working system of internal controls for ported number transactions in place.

**C. Qwest's Performance Assurance Plans ("PAPs")**

The FCC has identified five important characteristics of plans aimed at ensuring that market-opening performance will be maintained after securing section 271 entry:<sup>6</sup>

- Potential liability that provides a meaningful and significant incentive to comply with the designated performance standards;
- Clearly articulated, pre-determined measures and standards that encompass a comprehensive range of carrier-to-carrier performance;
- A reasonable structure that is designed to detect and sanction poor performance when it occurs;
- A self-executing mechanism that does not leave the door open unreasonably to litigation and appeal; and
- Reasonable assurances that the reported data are accurate.

Qwest's Performance Assurance Plans ("PAP") should be revised to clarify the penalty for extensive network outages causing the degree of harm experienced by OneEighty. It is not entirely clear how Qwest's actions of June 25, 2002 would be treated under Qwest's PAPs. For example, the highest Tier-1, Month 1 "per occurrence payment" in Colorado is \$225.00. If "occurrence" as applied to the June 25<sup>th</sup> outage means per line, that may be reasonable; it would allow the CLEC to compensate its business customers somewhat for the loss of a morning's business and their expenses in notifying customers that in fact their telephone numbers had not been disconnected. If "occurrence" means per global outage, or \$225.00 total for a three and one-half hour outage for 6000 business lines and the resulting bedlam, it is grossly inadequate

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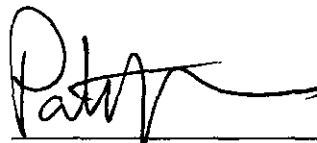
<sup>6</sup> *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, FCC 99-404, ¶ 433 (1999) ("New York Order").

and should be changed. In any event, the PAP should “clearly articulate” what sections are applicable with regard to such outages, and the payment set at a level that would actually “sanction poor performance.” Two hundred twenty-five dollars for the harm caused to OneEighty last week would be tantamount to no sanction at all. Qwest’s Application should be denied at this time because its PAP is seriously deficient.

## II. CONCLUSION

As the Commission has noted, “number portability is essential to meaningful competition.”<sup>7</sup> For the foregoing reasons, OneEighty Communications, Inc. urges the Commission to deny Qwest’s Application for Provision of In-Region InterLATA Services in Colorado, Idaho, Iowa, Nebraska, and North Dakota because Qwest fails to satisfy the competitive checklist item for Local Number Portability and because its PAP is seriously deficient.

Respectfully submitted,



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Dated: July 3, 2002

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<sup>7</sup> *In the Matter of Telephone Number Portability*, 11 FCC Rcd. 8352, ¶ 28 (1996).

CERTIFICATE OF SERVICE

I, Rogena Harris, hereby certify that a copy of the foregoing Comments of OneEighty Communications, Inc. was served upon the following this 3<sup>rd</sup> day of July 2002, by first class mail except as indicated.

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